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16 Attorneys for Defendants
17 ECHOSTAR SATELLITE LLC AND
18 ECHOSTAR TECHNOLOGIES CORPORATION

19 UNITED STATES DISTRICT COURT
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21 NORTHERN DISTRICT OF CALIFORNIA
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23 SAN JOSE DIVISION
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In re

ACACIA MEDIA TECHNOLOGIES
CORPORATION

Case No. 05-CV-1114 JW

**DECLARATION OF DAVID M.
HYMAS IN SUPPORT OF
SATELLITE DEFENDANTS'
MEMORANDUM RE THE
DEFINITIONS OF TERMS IN THE
'863 AND '720 PATENTS**

Date: Sept. 7-8, 2006
Time: 9:00 a.m.
Courtroom: 8, 4th Floor
Judge: Hon. James Ware

1 I, DAVID M. HYMAS, declare and state:

2 1. I am an associate at Morrison & Foerster LLP, counsel of record for defendants
3 EchoStar Satellite LLC and EchoStar Technologies Corporation in this case. Unless otherwise
4 stated, I have personal knowledge of the matters stated below and, if called as a witness to testify
5 could and would do so. I make this declaration in support of the Satellite Defendants'
6 Memorandum Re. the Definitions of Terms in the '863 and '720 Patents.

7 2. Attached hereto as Exhibit A is a true and correct copy of this Court's *Markman*
8 Order dated December 7, 2005, and filed in *Acacia Media Technologies Corp. v. New Destiny*
9 *Internet Group, Inc., et al.*, No. 05-1114 (N.D. Cal.).

10 3. Attached hereto as Exhibit B is a true and correct copy of this Court's *Markman*
11 Order dated July 12, 2004, and filed in *Acacia Media Technologies Corp. v. New Destiny Internet*
12 *Group, Inc., et al.*, No. 02-1040 (C.D. Cal.).

13 4. Attached hereto as Exhibit C is a true and correct copy of *The American Heritage*
14 *Dictionary of the English Language*, at 1026 (2000), regarding the definition of the word "local."

15 5. Attached hereto as Exhibit D is a true and correct copy of *Merriam-Webster*
16 *Collegiate Dictionary*, at 683 (10th ed. 1998), regarding the definition of the word "local."

17 6. Attached hereto as Exhibit E is a true and correct copy of a web page from *Oxford*
18 *English Dictionary Online* regarding the definition of the word "local," which is available at
19 [http://dictionary.oed.com/cgi/entry/50134719?query_type=word&queryword=local&first=1&ma](http://dictionary.oed.com/cgi/entry/50134719?query_type=word&queryword=local&first=1&max_to_show=10&sort_type=alpha&result_place=1&search_id=NX6C-ABIWrA-5374&hilite=50134719)
20 [x_to_show=10&sort_type=alpha&result_place=1&search_id=NX6C-ABIWrA-](http://dictionary.oed.com/cgi/entry/50134719?query_type=word&queryword=local&first=1&max_to_show=10&sort_type=alpha&result_place=1&search_id=NX6C-ABIWrA-5374&hilite=50134719)
21 [5374&hilite=50134719](http://dictionary.oed.com/cgi/entry/50134719?query_type=word&queryword=local&first=1&max_to_show=10&sort_type=alpha&result_place=1&search_id=NX6C-ABIWrA-5374&hilite=50134719).

22 7. Attached hereto as Exhibit F is a true and correct copy of Harry Newton, *Newton's*
23 *Telecom Dictionary*, at 446 (22nd ed. 2006), regarding cable head ends.

24 8. Attached hereto as Exhibit G is a true and correct copy of 4 Charles D. Ferris &
25 Frank W. Lloyd, *Telecommunications Regulation: Cable, Broadcasting, Satellite, and the*
26 *Internet*, app. e (1998), regarding cable head ends.

1 9. Attached hereto as Exhibit H is a true and correct copy of a web page from the
2 Cable Modem Info Center regarding cable head ends, which is available at
3 <http://www.cabledigitalnews.com/cmhc/headend.html>.

4 10. Attached hereto as Exhibit I is a true and correct copy of a web page from Cable
5 Digital News regarding cable head ends, which is available at
6 <http://www.cabledigitalnews.com/cmhc/diagram.html>.

7 11. Attached hereto as Exhibit J is a true and correct copy of a web page from
8 Webopedia regarding cable head ends, which is available at
9 http://www.webopedia.com/TERM/C/cable_headend.html.

10 12. Attached hereto as Exhibit K is a true and correct copy of a web page from
11 Searchnetworking.com regarding cable head ends, which is available at
12 http://searchnetworking.techtarget.com/sDefinition/0,,sid7_gci549164,00.html.

13 13. Attached hereto as Exhibit L is a true and correct copy of relevant excerpts from
14 the transcript of the June 14, 2006, *Markman* hearing.

15 14. Attached hereto as Exhibit M is a true and correct copy of the applicants' April 10,
16 1996 Preliminary Amendment, which is part of the '720 patent's prosecution history.

17 15. Attached hereto as Exhibit N is a true and correct copy of the applicants' July 24,
18 1997, Office Action, which is part of the '720 patent's prosecution history.

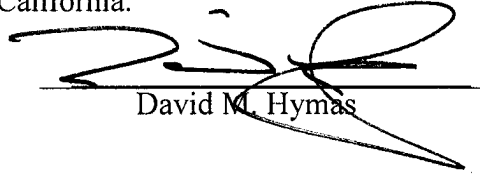
19 16. Attached hereto as Exhibit O is a true and correct copy of the applicants'
20 November 21, 1997, Response, which is part of the '720 patent's prosecution history.

21 17. Attached hereto as Exhibit P is a true and correct copy of *IEEE Standard*
22 *Dictionary of Electrical and Electronics Terms*, at 911 (6th ed. 1996), regarding the definition of
23 the word "represent."

24 18. Attached hereto as Exhibit Q is a true and correct copy of *Webster's Third New*
25 *International Dictionary*, at 1926 (1986), regarding the definition of the word "represent."

26 19. Attached hereto as Exhibit R is a true and correct copy of *Webster's Third New*
27 *International Dictionary*, at 2523-24 (1986), regarding the definition of the word "use."

1 20. I declare under penalty of perjury under the laws of the United States of America
2 and the State of California that the foregoing is true and correct and that this declaration was
3 executed on August 11, 2006, in San Francisco, California.

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